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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,229	07/05/2000	Roy Malcolm Moody	37261.p058	4990

7590 05/18/2004

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EXAMINER

STODOLA, DANIEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/610,229

Applicant(s)

MOODY ET AL.

Examiner

Daniel P. Stodola

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-17 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Drawings***

The drawings were received on February 6, 2004. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Vetter ('135) as advanced in the Office action of Paper No. 6.

### ***Allowable Subject Matter***

Claims 10-17 are allowed.

### ***Response to Arguments***

Applicant's arguments filed February 6, 2004 have been fully considered but they are not persuasive.

It is well established that a claim is anticipated if each and every element, as set forth in the claim, is found, either expressly or inherently described, in a single prior art

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reference. Applicant on page 12 of the instant response acknowledges this. Thus, the inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim(s) and what subject matter is described by the reference. For anticipation to be present, it is only necessary for the claim(s) to "read on" something disclosed in the prior art reference. See *Kalman v. Kimberley-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781,789 (CAFC 1983), cert. denied, 465 U.S. 1026 (1984).

It has been previously advanced as to how the disclosed structure of Vetter ('135) reads on the language of the claims in the advisory action mailed July 18, 2002, Paper No. 9, and the rejection mailed December 31, 2002, Paper No. 13. These remarks are incorporated by reference thereto. Applicant has not presented any substantive changes to the claim language or otherwise presented any convincing arguments to establish that the interpretation of Vetter ('135) is improper and precluded by the language of the claim(s).

With respect to Vetter ('135), applicant continues to assert that "15" is the sill of a conventional window frame and "16" and "17" are the side jambs and therefore these elements cannot be interpreted as constituting any other element named in the instant claims. Be this as it may, this assertion is not persuasive because it appears that applicant is relying on the specification to impart to the claims limitations not recited therein. For example, where in the claims is it defined that the window frame constitutes a sill, side jambs and a top piece? The examiner cannot find such structural definition of the window frame anywhere in claim 1. If this is such an important

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distinction and is intended to be present as limiting elements of the claim, why have such not been recited? Further, what specific structure defines the "mounting arrangement"? Nevertheless, the specific makeup of the broadly recited "window frame" and "mounting arrangement" continues not to be defined in the claims and as such there is nothing in the claims to preclude the sill 15 from constituting the "mounting arrangement" while the side jambs 16,17 (and the top piece) constitute the "window frame".

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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- Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Stodola whose telephone number is (703) 308-2686.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



STODOLA

May 14, 2004

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600